

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 916 and 917

[Docket No. FV95-916-1-IFR]

#### Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule revises the handling requirements for California nectarines and peaches by modifying the size, maturity, container, and pack requirements for fresh shipments of these fruits, beginning with 1995 season shipments. This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

**DATES:** Effective April 1, 1995. Comments which are received by April 20, 1995 will be considered prior to issuance of any final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; or by facsimile at 202-720-5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Johnson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room

2523-S, Washington, DC 20090-6456; telephone: (202) 720-2861; or Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; telephone: (209) 487-5901.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Marketing Order Nos. 916 and 917 [7 CFR Parts 916 and 917] regulating the handling of nectarines and peaches grown in California, hereinafter referred to as the orders. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions

in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$500,000, and small agricultural producers are defined as those whose annual receipts are less than \$5,000,000. A majority of these handlers and producers may be classified as small entities.

The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC) met December 7, 1994, and recommended that the handling requirements for California nectarines and peaches be revised, respectively. These committees meet prior to and during each season to review the rules and regulations effective on a continuous basis for California nectarines and peaches under the orders. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

#### Container and Pack Requirements (Nectarines)

Section 916.350 specifies container and pack requirements for fresh nectarine shipments. Paragraph (a)(4)(iv) of § 916.350 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of nectarines in a 16-pound sample for each tray-pack size designation. This rule revises paragraph

(a)(4)(iv) of § 916.350 by modifying two size designations for the weight-count standards in Column B of TABLE I for early-season and mid-season nectarine varieties. This table was added prior to the 1994 season. Research conducted by the NAC indicated that early-season and mid-season fruit weigh less than late-season fruit and therefore different weight-count standards were established for late-season fruit. Results from further research during the 1994 season suggest that some minor modifications of TABLE I are necessary to provide for more accurate weight-count standards for early-season and mid-season nectarines.

The NAC recommended these revised weight-count standards for nectarines after a comprehensive review of the relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season nectarine varieties. Specifically, the NAC's recommendation provides that the maximum number of nectarines of size 80 in a 16-pound sample of early-season and mid-season fruit is more appropriately 75 rather than 76. Also, the maximum number of nectarines of size 64 in a 16-pound sample of early-season and mid-season fruit is more appropriately 55 rather than 56.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for comparability between fruit packed in loose-filled or tight-filled containers and fruit packed in tray-pack containers.

According to the NAC, packers occasionally moved fruit from tray-pack containers to loose-filled or tight-filled containers. This activity has led to an awareness, in regard to early-season and mid-season varieties, that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose-filled or tight-filled containers. In some instances, these samples would need additional pieces of fruit to meet the 16-pound weight requirement, thus causing the pack to be marked smaller than its equivalent tray-pack size. When packs are marked with a smaller size, the container is generally sold for a lower price. Revised and refined weight-count standards for early-season and mid-season varieties should provide for more accurate marking of size when packed in loose-filled or tight-filled containers compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of nectarines.

Currently, under the marketing order the minimum maturity requirement for nectarines grown in California is U.S.

Mature, which means that the nectarine has reached the stage of growth which will insure a proper completion of the ripening process. A higher maturity standard is defined as California "Well Matured," which is a condition distinctly more advanced than mature.

This rule adds a definition of "tree ripe" to paragraph (b) of section 916.350. According to the NAC, "tree ripe" is an optional marking without regard to maturity that is stamped on containers of nectarines. Currently there is no definition of "tree ripe". As a result of inquiries from the industry and the trade, the NAC recommended defining "tree ripe" so that it has a standard meaning. In the past, there has been no definition of "tree ripe" although fruit boxes marked "tree ripe" had to meet the minimum marketing order maturity standard of U.S. Mature. Handlers have been able to stamp any maturity level, including U.S. Mature, as "tree ripe" due to a lack of any definition for this nomenclature. The NAC stated that in some instances, handlers have stamped "tree ripe" on every box of fruit they packed all season. There is growing concern within the industry that fruit packed at the lower level of acceptable maturity do not represent what is most commonly perceived as tree ripe. By requiring that fruit must be at a minimum California Well Matured maturity standard in order to be marked "tree ripe" will help ensure that buyer expectations are met.

#### **Maturity Requirements (Nectarines)**

Section 916.356 specifies maturity requirements for fresh nectarines in paragraph (a)(1)(i), including TABLE I, for fruit being inspected and certified as meeting the maturity requirements for "well matured" fruit. Such maturity requirements are based on maturity measurements which are generally recognized in terms of maturity guides (e.g., color chips) specified in paragraph (a)(1)(i) and TABLE I of § 916.356 for nectarines. This rule revises TABLE I of paragraph (a)(1)(i) of § 916.356 for nectarines to change the maturity guide for one nectarine variety.

Specifically, a change in color standard was recommended for Alshir Red from L to J. In a corresponding action, the tolerance for the Alshir Red variety that states "except not less than an aggregate area of 95% of fruit surface shall meet the color standard established for the variety" is deleted.

These changes for this nectarine variety are based on a continuing review of its individual maturity characteristics, and the identification of the appropriate color chip

corresponding to the "well matured" level of maturity for such variety.

#### **Size Requirements (Nectarines)**

Section 916.356 specifies size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific size requirements for fourteen nectarine varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1994 season.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time which not only improves maturity and therefore the quality of the product but also size and increases the number of packed boxes of nectarines per acre. This provides greater consumer satisfaction, more repeat purchases and therefore increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

Paragraph (a)(4) is revised to include the Arctic Glo, May Jim, and Red Glo varieties; and paragraph (a)(6) of § 916.356 is revised to include the Arctic Queen, How Red, La Pinta, Red Fred, Royal Glo, Royal Red, Ruby Diamond, Spring Bright, Summer Blush, 424-195, and Nectarine 23 varieties.

This rule also revises § 916.356 to remove six nectarine varieties from the variety-specific size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1994 season. Paragraph (a)(2) of that section is revised to remove the Aurelio Grand and Maybelle nectarine varieties; paragraph (a)(4) is revised to remove the Grand Stan variety; and paragraph (a)(6) is revised to remove the Autumn Grand, Le Grand, and Super Red nectarine varieties. Nectarine varieties removed from the nectarine variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

### Container and Pack Requirements (Peaches)

Section 917.442 currently specifies container and pack requirements for fresh peach shipments. Paragraph (a)(4)(iv) of § 917.442 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of peaches in a 16-pound sample for each tray pack size designation. This rule revises paragraph (a)(4)(iv) of § 917.442 by modifying three size designations for the weight-count standards in Column B of TABLE I for early-season and mid-season peach varieties. Research conducted by the PCC indicated that early-season and mid-season fruit weighs less than late-season fruit and the weight-count standards were, therefore, modified based on that consideration. Results from the 1994 season suggest that some minor modifications of TABLE I are necessary to further correct the weight-count differences between early-season and mid-season peaches, and late-season peaches.

The PCC recommended the revised container marking requirement changes for peaches after a comprehensive review of the appropriate size pack-count relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season peach varieties prior to the 1995 season. Specifically, the PCC's recommendation provides that the maximum number of peaches of size 84 in a 16-pound sample of early-season and mid-season fruit is more appropriately 83 rather than 85. Also, the maximum number of peaches of size 70 in a 16-pound sample of early-season and mid-season fruit is more appropriately 64 rather than 66. The maximum number of peaches of size 60 in a 16-pound sample of early-season to mid-season fruit is more appropriately 50 rather than 47.

In making this revision, a conforming change is required in § 917.459(a)(4)(iii) which is referenced in TABLE I. Section 917.459(a)(4)(iii) currently provides a maximum number of 85 peaches in a 16-pound sample of early-season and mid-season fruit. This revision will modify the maximum number of peaches in a 16-pound sample of early-season and mid-season fruit to 83 pieces of fruit from the current 85 pieces of fruit.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for equality between packs of loose-filled or tight-filled sizes to fruit sizes packed in tray-

pack styles. Varieties harvested early in the season and packed in loose-filled or tight-filled pack styles have had more difficulty being equal in size to tray-pack style of packing.

According to the PCC, packers occasionally moved fruit from tray-pack styles of pack to loose-filled or tight-filled pack styles. This activity has led to an awareness, especially in regard to early-season varieties, that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose- or tight-filled pack size. In some instances, these samples would need as many as 10 additional pieces of fruit to meet the 16-pound weight requirement, thus causing the pack to be "marked" smaller than its equivalent tray-pack size. When packs are "marked" smaller this causes the container to be sold for a lower price. During the 1994 season new weight-count assignments for early varieties were in place. Research continued with the purpose of possible refinement of those weight-count assignments.

Revised and refined weight-count standards for early varieties should provide for more accurate marking size when packed in loose-filled or tight-filled pack styles compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of peaches.

Currently, under the marketing order the minimum maturity requirement for peaches grown in California is U.S. Mature, which means that the peach has reached the stage of growth which will insure a proper completion of the ripening process. A higher maturity standard is defined as California "Well Matured," which is a condition distinctly more advanced than mature.

This rule adds a definition of tree ripe to section 917.442 paragraph (b). According to the PCC, tree ripe is an optional marking without regard to maturity that is stamped on containers of peaches. Currently there is no definition of tree ripe. As a result of inquiries from the industry and the trade, the PCC wants to define tree ripe so that its interpretation is consistent with other descriptive markings. In the past there has been no definition of tree ripe although fruit boxes marked "tree ripe" had to meet minimum marketing order standards. Handlers have been able to stamp any maturity level, including U.S. Mature, as tree ripe due to a lack of any definition for this nomenclature. The PCC states that in some instances in the past, it is known that some handlers have stamped tree ripe on every box of fruit they packed all season. There is growing concern

among the industry that fruit packed at the lowest levels of maturity do not represent what is most commonly perceived as tree ripe. By requiring fruit be at a minimum California "Well Matured" maturity standard in order to be marked tree ripe will help ensure that buyer expectations are met.

### Maturity Requirements (Peaches)

Section 917.459 specifies maturity requirements for fresh peaches in paragraph (a)(1)(i), including TABLE I, for fruit being inspected and certified as meeting the maturity requirements for "well matured" fruit. Such maturity requirements are based on maturity measurements which are generally recognized in terms of maturity guides (e.g., color chips) specified in paragraph (a)(1)(i) and TABLE I of § 917.459 for peaches. This rule revises TABLE I of paragraph (a)(1)(i) of § 917.459 for peaches to change the maturity guide for the David Sun, King's Red, Crimson Lady and Johnny's White peach varieties.

The SPI recommended these changes for these peach varieties based on a continuing review of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such varieties.

### Size Requirements (Peaches)

Section 917.459 specifies size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule revises § 917.459 to establish variety-specific size requirements for eight peach varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1994 season.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time which not only improves maturity and therefore the quality of the product but also size and increases the number of packed boxes of peaches per acre. This provides greater consumer satisfaction, more repeat purchases and therefore increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

In § 917.459 paragraph (a)(5) is revised to include the Snow Brite and Sugar May peach varieties; and paragraph (a)(6) is revised to include the August Delight, Autumn Rose, Red Boy, Royal Lady, September Snow, and Summer Sweet peach varieties.

This rule also revises § 917.459 to remove two peach varieties from the variety-specific size requirements specified in that section, because less than 5,000 packages of each of these varieties were produced during the 1994 season. In § 917.459 paragraph (a)(4) of § 917.459 is revised to remove the Morning Sun peach variety; and paragraph (a)(6) is revised to remove the Golden Lady peach variety. Peach varieties removed from the variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The removal of the Morning Sun variety from paragraph (a)(4) results in there being no varieties regulated within size 84 for the 1995 season. Since the variety-specific list is subject to change from one season to another, the Department wishes to reserve paragraph number § 916.459(a)(4) for future regulation of peaches at size 84.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department's determination is that this rule will have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that the rule, as hereinafter set

forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) California nectarine and peach growers and handlers should be apprised of this rule as soon as possible, since early shipments of these fruits are expected to begin about April 1; (2) this rule relaxes grade requirements for peaches and size requirements for several nectarine and peach varieties; (3) California nectarine and peach handlers are aware of these revised requirements recommended by the committees at public meetings, and they will need no additional time to comply with such requirements; and (4) the rule provides a 30-day comment period, and any written comments received will be considered prior to any finalization of this interim final rule.

#### List of Subjects

##### 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

##### 7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Parts 916 and 917 are amended as follows:

#### PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Parts 916 and 917 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 916.350 is amended by revising TABLE I of paragraph (a)(4)(iv) and paragraph (b) to read as follows:

##### § 916.350 California Nectarine Container and Pack Regulation.

- (a) \* \* \*  
(4) \* \* \*  
(iv) \* \* \*

TABLE I—WEIGHT-COUNT STANDARDS FOR NECTARINES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS

Column A <sup>1</sup>	Column B <sup>2</sup>
108 .....	100
96 .....	90

TABLE I—WEIGHT-COUNT STANDARDS FOR NECTARINES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS—Continued

Column A <sup>1</sup>	Column B <sup>2</sup>
88 .....	83
84 .....	78
80 .....	75
72 .....	67
70 .....	60
64 .....	55
60 .....	49
56 .....	46
54 .....	40
50 .....	38
48 .....	35
42 .....	31
40 .....	30
36 .....	25
34 .....	23
32 .....	22
30 .....	19

<sup>1</sup> Tray Pack Size Designation.

<sup>2</sup> Maximum Number of Nectarines in a 16-pound Sample Applicable to Varieties Specified in Paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(7)(ii), and (a)(8)(ii) of § 916.356.

\* \* \* \* \*

(b) As used in this section, *standard pack and fairly uniform in size* shall have the same meanings as set forth in U.S. Standards for Grades of Nectarines (§§ 51.3145 to 51.3160) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. No. 12B standard fruit box measures 2<sup>3</sup>/<sub>8</sub> to 7<sup>1</sup>/<sub>8</sub> × 11<sup>1</sup>/<sub>2</sub> × 16<sup>1</sup>/<sub>8</sub> inches, No. 22D standard lug box measures 2<sup>7</sup>/<sub>8</sub> to 7<sup>1</sup>/<sub>8</sub> × 13<sup>1</sup>/<sub>2</sub> × 16<sup>1</sup>/<sub>8</sub> inches, No. 22E standard lug box measures 8<sup>3</sup>/<sub>4</sub> × 13<sup>1</sup>/<sub>2</sub> × 16<sup>1</sup>/<sub>8</sub> inches, No. 22G standard lug box measures 7<sup>3</sup>/<sub>8</sub> to 7<sup>1</sup>/<sub>2</sub> × 13<sup>1</sup>/<sub>4</sub> × 15<sup>7</sup>/<sub>8</sub> inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. "Tree ripe" means fruit shipped and marked as tree ripe must meet minimum California Well Matured standards.

3. Section 916.356 is amended by revising paragraphs (a) introductory text, (a)(1), (a)(1)(i), Table I, (a)(2) introductory text, (a)(4) introductory text, and (a)(6) introductory text to read as follows:

##### § 916.356 California Nectarine Grade and Size Regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship:

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided*, That nectarines 2 inches in diameter or smaller, shall not

have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle  $\frac{3}{8}$  inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle  $\frac{1}{2}$  inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen. The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color guides or such other tests as determined appropriate by the inspection agency.

(i) The Federal or Federal-State Inspection Service will use the maturity guides listed in TABLE I in making maturity determinations for the specified varieties when inspecting to the "well matured" level of maturity. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Fairlane, Tom Grand, and 61-61 varieties of nectarines, not less than an aggregate area of 80 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in TABLE I may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified guides an inappropriate measure of "well matured."

TABLE I

Column A variety	Column B maturity guide
Alshir Red .....	J
Ama Lyn .....	G
Apache .....	G
April Glo .....	H
Armking .....	B
August Glo .....	L
August Red .....	J
Aurelio Grand .....	F
Autumn Delight .....	M
Autumn Grand .....	L
Bob Grand .....	L
Clinton-Strawberry .....	H
Del Rio Rey .....	G
Desert Dawn .....	G
Early Diamond .....	J
Early May .....	F
Early May Grand .....	H
Early Star .....	G
Early Sungrand .....	H
Fairlane .....	M

TABLE I—Continued

Column A variety	Column B maturity guide
Fantasia .....	J
Firebite .....	H
Flamekist .....	L
Flaming Red .....	K
Flavor Grand .....	G
Flavortop .....	J
Flavortop I .....	K
Gee Red .....	H
Gold King .....	H
Granderli .....	J
Grand Stan .....	F
Hi-Red .....	J
Independence .....	H
July Red .....	L
June Glo .....	H
June Grand .....	G
Kent Grand .....	L
Kism Grand .....	J
Larry's Grand .....	M
Late Le Grand .....	L
Late Tina Red .....	I
Le Grand .....	H
Maybelle .....	F
May Diamond .....	I
Mayfair .....	C
May Fire .....	H
May Glo .....	H
May Grand .....	H
May Kist .....	H
Mayred .....	B
Mid Glo .....	L
Mike Grand .....	H
Moon Grand .....	M
Niagara Grand .....	H
Pacific Star .....	G
P-R Red .....	L
Red Diamond .....	M
Red Delight .....	I
Red Free .....	L
Red Glen .....	J
Red Grand .....	H
Red Jim .....	L
Red June .....	G
Red Lion .....	J
Red May .....	J
Regal Grand .....	L
Rio Red .....	L
Royal Delight .....	F
Royal Giant .....	I
Ruby Grand .....	J
Ruby Sun .....	J
Scarlet Red .....	K
September Grand .....	L
September Red .....	L
Sheri Red .....	J
Sierra Star/181-119 .....	J
Son Red .....	L
Sparkling June .....	M
Sparkling May .....	J
Sparkling Red .....	L
Spring Diamond .....	M
Spring Grand .....	G
Spring Red .....	H
Springtop .....	B
Stan's Grand .....	C
Star Bright .....	G
Star Brite .....	J
Star Grand .....	H
Summer Beaut .....	H
Summer Blush .....	J

TABLE I—Continued

Column A variety	Column B maturity guide
Summer Bright .....	J
Summer Diamond .....	M
Summer Fire .....	L
Summer Grand .....	L
Summer Lion .....	M
Summer Red .....	L
Summer Star .....	G
Sunburst .....	J
Sun Diamond .....	I
Sunfre .....	F
Sun Grand .....	G
Super Star .....	G
Tasty Free .....	J
Tasty Gold .....	H
Tom Grand .....	L
Zee Glo .....	J
61-61 .....	J

**Note:** Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

\* \* \* \* \*

(2) Any package or container of May Glo variety nectarines through May 5 of each year; or April Glo, Mayfire, or Royal Delight variety nectarines, unless:

\* \* \* \* \*

(4) Any package or container of Early May, Mike Grand, June Brite, June Glo, May Grand, May Diamond, May Lion, Pacific Star, Red Delight, Rose Diamond, Sparkling May, Star Brite, Sunfire, or Zee Grand variety nectarines unless:

\* \* \* \* \*

(6) Any package or container of Alshir Red, Alta Red, Arctic Queen, Arctic Rose, August Glo, August Red, Autumn Delight, Big Jim, Bob Grand, Del Rio Rey, Early Red Jim, Early Sungrand, Fairlane, Fantasia, Firebite, Flamekist, Flaming Red, Flavor Grand, Flavortop, Flavortop I, Grand Diamond, How Red, Independence, July Red, King Jim, Kay Diamond, Kism Grand, La Pinta, Late Le Grand, Late Red Jim, Mid Glo, Moon Grand, Niagara Grand, Prima Diamond, P-R Red, Red Diamond, Red Fred, Red Free, Red Glen, Red Jim, Red Lion, Rio Red, Royal Giant, Royal Glo, Royal Red, Ruby Diamond, Ruby Grand, Scarlet Red, September Grand, September Red, Son Red, Sparkling June, Sparkling Red, Spring Bright, Spring Diamond, Spring Red, Summer Beaut, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Lion, Summer Red, Summer Star, Sunburst, Sun Diamond, Sun Grand, Super Star, Tasty Gold, Tom Grand, Zee Glo, 181-119, 80P-1135, 424-195, or Nectarine 23 variety nectarines unless:

\* \* \* \* \*

**PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA**

4. Section 917.442 is amended by revising TABLE I of paragraph (a)(4)(iv) and paragraph (b) to read as follows:

**§ 917.442 California Peach Container and Pack Regulation.**

- (a) \* \* \*  
(4) \* \* \*  
(iv) \* \* \*

Table I—Weight-Count Standards for Peaches Packed in Loose or Tight-Filled Containers

Column A <sup>1</sup>	Column B <sup>2</sup>
96 .....	96
88 .....	92
84 .....	83
80 .....	76
72 .....	68
70 .....	64
64 .....	56
60 .....	50
56 .....	46
54 .....	43
50 .....	39
48 .....	35
42 .....	31
40 .....	30
36 .....	27
34 .....	25
32 .....	23
30 .....	21

<sup>1</sup> Tray Pack Size Designation.

<sup>2</sup> Maximum Number of Peaches in a 16-pound Sample Applicable to Varieties Specified in Paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(iii), (a)(5)(ii), and (b)(3) of § 917.459.

\* \* \* \* \*

(b) As used in this section, *standard pack* shall have the same meaning as set forth in U.S. Standards for Grades of Peaches (§§ 51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. No. 12B standard fruit box measures 2<sup>3</sup>/<sub>8</sub> to 7<sup>1</sup>/<sub>8</sub>×11<sup>1</sup>/<sub>2</sub>×16<sup>1</sup>/<sub>8</sub> inches, No. 22D standard lug box measures 2<sup>7</sup>/<sub>8</sub> to 7<sup>1</sup>/<sub>8</sub>×13<sup>1</sup>/<sub>2</sub>×16<sup>1</sup>/<sub>8</sub> inches, No. 22E standard lug box measures 8<sup>3</sup>/<sub>4</sub>×13<sup>1</sup>/<sub>2</sub>×16<sup>1</sup>/<sub>8</sub> inches, No. 22G standard lug box measures 7<sup>3</sup>/<sub>8</sub> to 7<sup>1</sup>/<sub>2</sub>×13<sup>1</sup>/<sub>4</sub>×15<sup>7</sup>/<sub>8</sub> inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. "Tree ripe" means fruit shipped and marked as tree ripe must meet minimum California Well Matured standards.

5. Section 917.459 is amended by revising paragraph (a)(2)(ii), adding Table I, and revising paragraphs (a)(4), (a)(5) introductory text, and (a)(6) introductory text to read as follows:

**§ 917.459 California Peach Grade and Size Regulation.**

- (a) \* \* \*  
(2) \* \* \*

(ii) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

TABLE I

Column A variety	Column B maturity guide
Angelus .....	I
Ambercrest .....	G
Armgold .....	D
August Sun .....	I
Autumn Crest .....	I
Autumn Gem .....	I
Autumn Lady .....	H
Autumn Rose .....	I
Bella Rosa .....	G
Belmont (Fairmont) .....	I
Berenda Sun .....	I
Blum's Beauty .....	G
Bonjour .....	F
Cardinal .....	G
Cal Red .....	I
Carnival .....	I
Cassie .....	H
Coronet .....	E
Crimson Lady .....	J
Crown Princess .....	J
David Sun .....	I
Desertgold .....	B
Diamond Princess .....	J
Early Coronet .....	D
Early Fairtime .....	I
Early May Crest .....	H
Early O'Henry .....	I
Early Royal May .....	G
Early Top .....	G
Elberta .....	B
Elegant Lady .....	M
Fairtime .....	G
Fancy Lady .....	J
Fay Elberta .....	C
Fayette .....	I
Fire Red .....	I
First Lady .....	D
Flamecrest .....	I
Flavorcrest .....	G
Flavor Queen .....	H
Flavor Red .....	G
Fortyniner .....	F
Franciscan .....	G
Goldcrest .....	H
Golden Crest .....	H
Golden Lady .....	F
Honey Red .....	G
Jody Gaye .....	F
John Henry .....	J
Judy Elberta .....	C
July Lady .....	G
June Crest .....	G
June Lady .....	G
June Pride .....	J
June Sun .....	H

TABLE I—Continued

Column A variety	Column B maturity guide
Kearney .....	I
Kern Sun .....	H
Kings Lady .....	I
Kings Red .....	I
Lacey .....	I
Mardigras .....	G
Mary Ann .....	G
May Crest .....	G
May Lady .....	G
Merrill Gem .....	G
Merrill Gemfree .....	G
Morning Sun .....	D
O'Henry .....	I
Pacifica .....	G
Parade .....	I
Pat's Pride .....	D
Preuss Suncrest .....	F
Prima Fire .....	H
Prima Lady .....	J
Prime Crest .....	H
Queen Crest .....	G
Ray Crest .....	G
Red Cal .....	I
Redglobe .....	C
Redhaven .....	G
Red Lady .....	G
Redtop .....	G
Regina .....	G
Rich Lady .....	J
Rich May .....	H
Rio Oso Gem .....	I
Royal April .....	D
Royal Lady .....	J
Royal May .....	G
Ruby May .....	H
Ryan Sun .....	I
Scarlet Lady .....	F
September Sun .....	I
Sierra Crest .....	H
Sierra Lady .....	I
Sparkle .....	I
Springcrest .....	G
Spring Lady .....	H
Springgold .....	D
Sugar Lady .....	J
Summer Lady .....	M
Summerset .....	I
Suncrest .....	G
Sun Lady .....	I
Topcrest .....	H
Toreador .....	I
Tra Zee .....	J
Treasure .....	F
Willie Red .....	G
Windsor .....	I
Zee Lady .....	L
50-178 .....	G

**Note:** Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

\* \* \* \* \*

(4) (i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of a standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(4) (i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 83 peaches.

(5) Any package or container of Babcock, Crimson Lady, Crown Princess, David Sun, Early May Crest, First Lady, Flavorcrest, Golden Crest, Honey Red, June Lady, June Sun, Kern Sun, Kingscrest, Kings Red, May Crest, Merrill Gem, Merrill Gemfree, Queencrest, Ray Crest, Redtop, Regina, Rich May, Royal May, Sierra Crest, Snow Brite, Snow Flame, Springcrest, Spring Lady, Sugar May, Summer Crest, or 50-178 variety of peaches unless:

\* \* \* \* \*

(6) Any package or container of Amber Crest, Angelus, August Delight, August Sun, Autumn Crest, Autumn Gem, Autumn Lady, Autumn Rose, Belmont, Berenda Sun, Blum's Beauty, Cal Red, Carnival, Cassie, Champagne, Diamond Princess, Early Elegant Lady, Early O'Henry, Elegant Lady, Fairmont, Fairtime, Fay Elberta, Fire Red, Flamecrest, John Henry, July Lady, June Pride, Kings Lady, Lacey, Late Ito Red, Mary Ann, O'Henry, Parade, Prima Gattie, Prima Lady, Red Boy, Red Cal, Redglobe, Rich Lady, Royal Lady, Ryan's Sun, Scarlet Lady, September Snow, September Sun, Sierra Lady, Sparkle, Sprague Last Chance, Summer Lady, Summer Sweet, Suncrest, Tra Zee, White Lady, or Zee Lady variety of peaches unless:

\* \* \* \* \*

Dated: March 15, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*  
[FR Doc. 95-6908 Filed 3-20-95; 8:45 am]

BILLING CODE 3410-02-W

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-NM-23-AD; Amendment 39-9175; AD 95-06-05]

#### **Airworthiness Directives; Boeing Model 737-200 and -300 Series Airplanes Equipped With Cargo Doors Installed in Accordance With Supplemental Type Certification (STC) SA2969SO**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737-200 and -300 series airplanes. This action requires inspections to detect cracking of the fuselage frames at certain locations below the lower jamb of the upper deck main cargo door, and repair, if necessary. This amendment is prompted by reports of fatigue cracking in the fuselage frames at these locations. The actions specified in this AD are intended to prevent rapid decompression of the airplane due to fatigue cracking in the fuselage frames of the main deck cargo door.

**DATES:** Effective April 5, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 5, 1995.

Comments for inclusion in the Rules Docket must be received on or before May 22, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-23-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Pemco Aeroplex, Incorporated, P.O. Box 2287, Birmingham, Alabama 35201-2287. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Curtis Jackson, Aerospace Engineer,

Airframe Branch, ACE-120A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7348; fax (404) 305-7348; or Della Swartz, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2785; fax (206) 227-1181.

**SUPPLEMENTARY INFORMATION:** Recently, two operators reported finding fatigue cracks in the fuselage frames below the lower jamb of the main deck cargo door between stringers 20L and 21L at water line 180 on Boeing Model 737-300 series airplanes. The cracking was randomly located in various areas of the fuselage frames and may have initiated at frame stations 380, 400, 420, 440, 460, and/or 480 at the radius of the frame webs that were modified in accordance with supplemental type certificate (STC) SA2969SO.

Such cracking, if not detected and corrected in a timely manner, could result in rapid decompression of the airplane.

Pemco Aeroplex installed main deck cargo doors on Boeing Model 737-200 and -300 series airplanes in accordance with STC SA2969SO. Therefore, the FAA has determined that Boeing Model 737-200 series airplanes are also subject to the same unsafe condition.

The FAA has reviewed and approved Pemco Alert Service Letter 737-53-0004, dated January 10, 1995, which describes procedures for detailed close visual inspections to detect cracking of the fuselage frames below the lower jamb of the upper deck main cargo door between stringers 20L and 21L at water line 180 at frame stations 380, 400, 420, 440, 460, and 480, and repair of any cracking found.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent rapid decompression of the airplane due to cracking of the fuselage frames below the lower jamb of the upper deck main cargo door. This AD requires detailed close visual inspections to detect cracking of the fuselage frames below the lower jamb of the upper deck main cargo door, and repair, if necessary. The actions are required to be accomplished in accordance with the alert service letter described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.